

LEO P. SAS

IBLA 81-982

Decided September 8, 1982

Appeal from decision of the Oregon State Office, Bureau of Land Management, rejecting oil and gas lease offer OR 21033.

Affirmed.

1. Oil and Gas Leases: First Qualified Applicant -- Oil and Gas Leases:
Noncompetitive Leases

An oil and gas lease offer must be rejected when the land applied for has been leased to a senior offeror under a proper offer.

APPEARANCES: Leo P. Sas, pro se.

OPINION BY ADMINISTRATIVE JUDGE FRAZIER

Leo P. Sas appeals from that portion of the August 4, 1981, decision of the Oregon State Office, Bureau of Land Management (BLM), which rejected his noncompetitive oil and gas lease offer OR 21033, filed May 15, 1979, for the NE 1/4 SE 1/4, sec. 27, T. 3 N., R.3 W., Willamette meridian in Washington County, Oregon. 1/ BLM rejected appellant's offer because the land described in his offer was the same land described in lease offer OR 21040, filed by Peter J. Farelly on May 14, 1979, which lease was issued July 17, 1981.

In his statement of reasons for appeal, appellant does not claim that his offer was filed with BLM prior to the Farelly offer. He asserts that 2 weeks after he filed OR 21033, he checked the applicable serial register books and oil and gas plat and found reference only to his own application. Appellant also points out that the Farelly offer carries a subsequent serial number, OR 21040.

A review of both case files shows that appellant's offer was in fact filed with BLM on the day after the Farelly offer was filed. Appellant's case

1/ BLM rejected the remainder of appellant's offer for the NE 1/4 of the same section because lease OR 20676 was issued in response to an offer filed May 2, 1979. Appellant did not appeal this portion of BLM's decision.

file contains plat maps dated August 24, 1979, and August 12, 1981, which indicate both applications, and a memorandum to the file dated August 27, 1981, from Harold A. Berends of the Oregon State Office which reads:

The time period when this offer was filed was shortly after the initial gas discovery at Mist, Oregon. Filing received during May and June 1979 were 20 times the volume experienced prior to the Mist discovery.

It is not known how the applications got out of sequence in assigning serial numbers to applications after time stamping.

[1] 30 U.S.C. § 226(c) provides that once the Secretary has determined to lease lands not within the known geological structure of a producing oil or gas field, "the person first making application for the lease who is qualified to hold under this chapter shall be entitled to a lease of such lands without competitive bidding." (Emphasis added.) Because a qualified offeror filed an application before the appellant, the State Office properly issued a lease to the first offeror and rejected appellant's subsequent offer. El Paso Products Co., 10 IBLA 116 (1973). The result is the same even though the records appellant assertedly viewed shortly after these offers were filed did not reflect the Farelly offer. Reliance on incomplete information provided by BLM employees or erroneous notations to a BLM serial register page cannot create any rights not authorized by law. Paul S. Cooper, 64 IBLA 146 (1982); Alver C. Duncan, 39 IBLA 144 (1979).

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision of the Oregon State Office is affirmed.

Gail M. Frazier
Administrative Judge

We concur:

C. Randall Grant, Jr.
Administrative Judge

Anne Poindexter Lewis
Administrative Judge

